

NEVADA ADMINISTRATIVE CODE
CHAPTER 348A - ISSUANCE OF PRIVATE ACTIVITY BONDS

NAC 348A.010 Definitions. ([NRS 348A.040](#))

As used in this chapter, unless the context otherwise requires, the words and terms defined in [NAC 348A.020](#) to [348A.150](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Dep't of Commerce, eff. 2-18-88; A by Dep't of Business & Industry by R038-02, eff. 6-26-2002)

NAC 348A.020 "Allocation" defined.

"Allocation" means the principal amount of private activity bonds which is reserved and assigned to state and local governmental agencies authorized by law to issue private activity bonds.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.030 "Code" defined.

"Code" means the Internal Revenue Code of 1954, as amended.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.040 "Department" defined.

"Department" means the department of business and industry.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.050 "Director" defined.

"Director" means the director of the department.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.060 "Local agency" defined.

"Local agency" means any political subdivision of the state or of a local government authorized to issue private activity bonds.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.070 "Local government" defined.

"Local government" means any county or incorporated city in this state. The term includes Carson City.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.080 "Local population share" defined.

"Local population share" means:

1. For each incorporated city and Carson City, a percentage calculated for each calendar year by dividing the most recent state estimate of the population of the city by the most recent state estimate of the population of the state.

2. For each county, a percentage calculated for each calendar year by dividing the most recent state estimate of the population of the unincorporated area of the county by the most recent state estimate of the population of the state.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.090 "Private activity bond" defined.

"Private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.100 "Project" defined.

"Project" means any construction, planned expenditure, program or other activity intended to be financed by a private activity bond which is described in sufficient detail to determine eligibility for financing.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.110 "Special committee" defined.

"Special committee" means the special committee to provide advice on private activity bonds created pursuant to [NAC 348A.280](#).

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.120 "State agency" defined.

"State agency" means the department, any division thereof or any other entity authorized to issue private activity bonds in the name of the State of Nevada or any agency of the state.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.130 "State ceiling" defined.

"State ceiling" has the meaning ascribed to it in 26 U.S.C. § 146(d).

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.140 "State estimate of the population" defined.

"State estimate of the population" means the estimate of the population of the state and its subdivisions published by the department of taxation and certified by the governor pursuant to [NRS 360.285](#).

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.150 "Volume cap" defined.

"Volume cap" has the meaning ascribed to it in 26 U.S.C. § 146(b) and (c).

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.160 Determination of volume cap for local government.

The local population share of a local government in this state will be used to determine the volume cap for that government at the beginning of each calendar year, pursuant to [NRS 348A.020](#).

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.170 Augmentation by director of volume cap for local government.

1. A local government may apply to the director for a transfer of any portion of the state ceiling allocated to the director pursuant to [NRS 348A.020](#), or any augmentation of the director's allocation. The application must contain such information as the director may require.

2. The director will augment the volume cap for any local government only for a specific project.

3. The director, upon the advice of the special committee, may transfer to a local government a portion of the state ceiling assigned as an allocation to or controlled by the director, upon such terms and conditions as the director may determine.

4. An allocation made or transferred to a local government by the director is irrevocable upon the issuance of private activity bonds for the project being financed pursuant thereto to the extent of the principal amount of the bonds so issued. The local government to which the allocation is made or the local agency to which the allocation is transferred for the eventual issuance of private activity bonds may treat all or any portion of the allocation or transfer as a carry forward pursuant to the code unless the allocation or transfer provides otherwise.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.180 Transfer of volume cap or local population share by local government. (NRS 348A.040)

1. A local government may, by resolution, transfer to any other local government located within the same county, all or any portion of its volume cap or local population share for a specific project. Any portion that is transferred is subject to the provisions of [NAC 348A.220](#) in the same manner as the local population share of the local government receiving the transfer.

2. A local government may transfer to the director, by resolution, all or any portion of its volume cap or local population share, subject to the director's approval. The resolution must identify a representative of the local government with whom the director may communicate regarding the resolution and must provide a means of contacting that representative.

3. Any transfer made pursuant to this section may be subject to such terms and conditions as may be established by the local government in its resolution if the resolution requires the beneficiary of the transfer to:

(a) Inform the director in writing as soon as practicable of the occurrence or nonoccurrence of any term or condition that would affect the disposition of the subject volume cap;

(b) Identify a representative of the beneficiary of the transfer with whom the director may communicate regarding the resolution; and

(c) Provide a means of contacting that representative.

4. Any transfer is irrevocable upon the issuance of private activity bonds for the project which is the subject of the transfer to the extent of the principal amount of the bonds so issued.

5. The local government receiving the transfer may elect to treat all or any portion of the transfer as a carry forward, if permitted by the code, unless the resolution making the

transfer provides otherwise. If the local government receiving the transfer elects to treat all or any portion of the transfer as a carry forward, the local government receiving the transfer shall provide to the director a copy of the federal tax form filed to evidence its election within 30 days after the form is filed with the Internal Revenue Service.

(Added to NAC by Dep't of Commerce, eff. 2-18-88; A by Dep't of Business & Industry by R038-02, eff. 6-26-2002)

NAC 348A.190 Project by local agency without local population share.

1. A local agency which does not have a local population share of the state ceiling shall apply to the local government in which the project to be financed is located for use of the local government's local population share for the project.

2. If the project of the local agency requires an augmentation of the local government's local population share, the local government may request an augmentation of its local population share for the project in any manner permitted in this chapter.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.200 Priority for local government that transfers volume cap.

The director will give priority to the issuance of private activity bonds by or on behalf of a local government, in an amount which does not exceed the amount of the volume cap transferred to the director by the local government in the current calendar year.

(Added to NAC by Dep't of Commerce, eff. 2-18-88; A 11-13-90)

NAC 348A.210 Consent required for certain augmentations and transfers.

No augmentation of the volume cap for or transfer made to a local government pursuant to [NAC 348A.170](#) and [348A.180](#) may be transferred by the initial recipient to any other local government, state agency or agency of any other state without the written consent of the director.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.220 Reversion to director of volume cap for local government. (NRS 348A.040)

1. After September 1 of any calendar year, the volume cap for the director will, for the remainder of that calendar year, be augmented by an amount equal to any unused portion of the volume cap assigned for that calendar year to any local government pursuant to [chapter 348A of NRS](#), and augmented pursuant to this chapter, unless the local government adopts a resolution on or before September 1 of that year indicating that it has used, intends to use or has reserved its entire allocation, or a portion thereof, for a specified project or projects for the remainder of that calendar year.

2. Any portion of a local government's volume cap allocated for a calendar year which is not committed to a specified project by September 1, or is not sufficiently identified or not adequately described in a resolution adopted by the local government, reverts to the director.

3. A copy of the resolution required by subsection 1 must:

- (a) Identify a representative of the local government with whom the director may communicate regarding the resolution;
- (b) Provide a means of contacting that representative;
- (c) Be mailed to the director and secretary of the state board of finance; and
- (d) Be received on or before September 15 of the calendar year to which it applies or the local government's local population share reverts to the director.

4. On October 1 of each calendar year, or as soon thereafter as is practicable, the director will file a certificate on a form designated by the secretary of the state board of finance, specifying the local governments affected by the provisions of this section and the amount by which the director's volume cap is augmented for the remainder of the calendar year.

5. If a local government has adopted and mailed a resolution pursuant to the provisions of this section, it shall determine not later than December 1 if the allocation reserved has been, or will be, used by December 31 through the issuance of bonds or a carry forward to a subsequent year and shall immediately certify in writing to the director the amount of the reserved allocation which will be used.

6. If the local government fails to certify on or before December 1 that any portion of a reserved allocation will be used or if the director does not receive written certification by December 10, the unused portion of the reserved allocation reverts to the director. As soon thereafter as is practicable, the director will file a certificate in the form and manner provided in subsection 4 and mail a copy of the certificate to the representative of the local government.

(Added to NAC by Dep't of Commerce, eff. 2-18-88; A by Dep't of Business & Industry by R038-02, eff. 6-26-2002)

NAC 348A.230 Transfer of volume cap or state ceiling by director.

1. An agency of this state or the agency of any other state which has the authority to issue private activity bonds may apply to the director for a transfer of a portion of the director's volume cap or any share of the state ceiling controlled by the director. The application must contain such information as the director may require.

2. An application filed pursuant to subsection 1 must be for a specific project.

3. The director, upon the advice of the special committee, may transfer to an applicant a portion of the state ceiling controlled by the director upon such terms and conditions as the director may determine.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.240 Application for issuance of bonds; allocation certificate.

1. An application for the issuance of private activity bonds by the director must be submitted on a form approved by the director. Before any private activity bonds are issued, the director will execute, issue and file with the secretary of the state board of finance an allocation certificate in a form approved by the secretary in the amount of the bonds to be issued for the benefit of the applicant or the sponsor of the project, reserving a portion of the state ceiling for the project for 45 days after the date of the issuance of the certificate.

2. An allocation certificate issued pursuant to this section may only be extended by the director, upon the advice of the special committee, for a term and under such conditions as he determines. An extension will not be granted if it would cause the amount of private activity bonds issued for the calendar year to exceed the state ceiling.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.250 Determination of state ceiling.

The director will, at the beginning of each calendar year, determine the state ceiling for that year, based upon the state estimate of the population.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.260 Certificates for issuance of bonds or transfer of volume cap.

1. The director, any state agency, any local government and any local agency which issues private activity bonds subject to the limitations established in the code, shall file a certificate with the secretary of the state board of finance describing the amount of the bonds and the purpose for which they were issued. The certificate must be filed within 15 days after the date on which the bonds are issued on a form approved by the secretary.

2. A local government shall or the director will, within 5 days after transferring any portion of the volume cap of the local government or the allocation of the state ceiling under the control of the director, file a certificate with the secretary of the state board of finance indicating that the transfer was made. The certificate must be filed on a form approved by the secretary. The transfer becomes effective on the date on which the certificate is filed with the secretary.

3. If good cause is shown, the special committee may grant upon referral from the director a variance from the provisions of this section if the variance does not cause the amount of private activity bonds issued for the calendar year to exceed the state ceiling.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.270 Record of certificates.

The official record of all certificates filed pursuant to [NAC 348A.260](#) must be maintained in the office of the secretary of the state board of finance.

(Added to NAC by Dep't of Commerce, eff. 2-18-88)

NAC 348A.280 Special committee to provide advice on private activity bonds. (NRS 348A.040)

1. The special committee to provide advice on private activity bonds is hereby created, consisting of the following members:

(a) The director, who will act as chairman.

(b) The executive director of the commission on economic development, or his designee.

(c) The administrator of the housing division of the department, or his designee.

(d) The chief of the office of business finance and planning of the department, who shall act as the ex officio secretary of the committee and as the chairman in the director's absence.

(e) The director of the Nevada Association of Counties, or his designee.

(f) The director of the Nevada League of Cities, or his designee.

2. The director may appoint an additional member to the committee who:
(a) Is a member of the general public;
(b) Is knowledgeable in matters referred to the committee; and
(c) Has no financial or pecuniary interest in matters referred to the committee pursuant to this chapter.

3. Four members of the committee must be present to conduct the business of the committee.

4. The committee shall consider any matter referred to it pursuant to this chapter and may, if requested, advise the governor, the state board of finance and the director on any matter concerning private activity bonds.

(Added to NAC by Dep't of Commerce, eff. 2-18-88; A by Dep't of Business & Industry by R038-02, eff. 6-26-2002)

NAC 348A.290 Requests for clarification, relief or information. (NRS 348A.040)

Any person who wishes:

1. A clarification of the application of the provisions of this chapter;
2. Relief from the strict application of any provision of this chapter; or
3. Information concerning the procedures for submitting requests to the director or the special committee,
may address a written request therefor as follows:

Attn: Director
Department of Business and Industry
555 East Washington Avenue, Suite 4900
Las Vegas, Nevada 89101-1075

(Added to NAC by Dep't of Commerce, eff. 2-18-88; A by Dep't of Business & Industry by R038-02, eff. 6-26-2002)

NAC 348A.300 Fee for allocation of portion of state ceiling.

1. If a portion of the state ceiling for private activity bonds allocated to or controlled by the director is assigned, transferred or committed to a recipient or an allocation certificate is issued by the director, the sponsor of the project shall pay or become obligated to pay to the director a fee for the allocation of that portion of the state ceiling for private activity bonds in the amount of \$500 per \$1,000,000 or any fraction thereof of the portion that is the subject of the transfer, assignment, commitment or allocation certificate.

2. The payment must be remitted at the time of:
(a) The assignment or transfer;
(b) The issuance of the allocation certificate; or
(c) The issuance of the bonds,
whichever date of payment is agreed to by the director and the applicant or recipient.

3. The director will use the fees collected pursuant to this section exclusively to support the operations of his office that are in connection with the programs administered pursuant to the provisions of chapters 348A and 349 of NRS and any regulations adopted pursuant thereto.

4. The director will establish the appropriate accounts and procedures for the deposit and expenditure of money received pursuant to this section.

5. This section applies to:

(a) Any transfer or assignment of, or any allocation certificate issued for, any portion of the state ceiling for private activity bonds that is subject to the authority of the director; and

(b) Any other official act performed by the director that allocates, obligates, uses or commits any such portion of the state ceiling for private activity bonds.

(Added to NAC by Dep't of Commerce, eff. 7-6-92)